

House File 43 - Introduced

HOUSE FILE 43

BY HUNTER

A BILL FOR

1 An Act requiring certain peace officers, including tribal law
2 enforcement officers, to wear and use a body camera and
3 providing remedies.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 22.7, subsection 5, Code 2021, is amended
2 to read as follows:

3 5. Peace officers' investigative reports, privileged
4 records or information specified in [section 80G.2](#), and specific
5 portions of electronic mail and telephone billing records of
6 law enforcement agencies if that information is part of an
7 ongoing investigation, except where disclosure is authorized
8 elsewhere in this Code. However, the date, time, specific
9 location, and immediate facts and circumstances surrounding a
10 crime or incident shall not be kept confidential under this
11 section, except in those unusual circumstances where disclosure
12 would plainly and seriously jeopardize an investigation or pose
13 a clear and present danger to the safety of an individual.
14 Specific portions of electronic mail and telephone billing
15 records may only be kept confidential under [this subsection](#) if
16 the length of time prescribed for commencement of prosecution
17 or the finding of an indictment or information under the
18 statute of limitations applicable to the crime that is under
19 investigation has not expired. The contents of a peace officer
20 body camera recording shall be a public record. However, the
21 release of the contents of such a recording shall be governed
22 by section 80C.1.

23 Sec. 2. NEW SECTION. 80C.1 Peace officer body cameras —
24 requirement — confidentiality — disclosure — retention.

25 1. As used in this section, unless the context otherwise
26 requires:

27 a. "Agency" means a law enforcement agency.

28 b. "Body camera" means an electronic device that is capable
29 of recording video and audio data or capable of transmitting
30 video and audio data to be recorded remotely, and is worn on
31 the person of a peace officer, which includes being attached to
32 the officer's clothing or worn on eyeglasses.

33 c. "Peace officer" means a peace officer defined in section
34 801.4, subsection 11, paragraph "a", "b", "c", "f", "g", "h",
35 or "i", or a certified law enforcement officer under section

1 80B.18.

2 2. A peace officer shall wear a body camera at all times
3 while on duty and in uniform and shall record using the body
4 camera all interactions with people in the performance of the
5 official duties of the peace officer from the beginning to the
6 end of those interactions.

7 3. A body camera shall be worn on the chest or at the eye
8 level of the peace officer.

9 4. A body camera shall not contain facial recognition
10 technology unless the use of such technology has been
11 authorized by the court pursuant to an arrest warrant or a
12 search warrant.

13 5. A peace officer shall inform a person when that person
14 is being recorded by a body camera unless informing the person
15 would be unsafe, impractical, or impossible.

16 a. If a peace officer wearing a body camera enters a
17 residence without a warrant or where no exigent circumstances
18 exist, the peace officer shall immediately ask whether a
19 resident desires the peace officer to stop the body camera
20 recording while the peace officer is in the residence. If the
21 resident responds in the affirmative, the peace officer shall
22 stop the body camera recording. The peace officer shall record
23 the question required to be asked by this paragraph and any
24 answer to the question.

25 b. If a peace officer wearing a body camera interacts with
26 a person reporting a crime, providing information regarding
27 a crime or ongoing investigation, or claiming to be a victim
28 of a crime, the peace officer shall immediately ask whether
29 the person desires the peace officer to stop the body camera
30 recording of the interaction. If the person responds in the
31 affirmative, the peace officer shall stop the body camera
32 recording. The peace officer shall record the question
33 required to be asked by this paragraph and any answer to the
34 question.

35 6. a. Except as otherwise provided in this subsection, an

1 agency shall retain the contents of a recording created by a
2 body camera for thirty days.

3 *b.* An agency shall retain the contents of a recording
4 created by a body camera for a period of three years beginning
5 on the date of the recording if any of the following apply:

6 (1) The recording depicts an incident involving the use of
7 force.

8 (2) The recording depicts an incident that leads to
9 detention or arrest of a person.

10 (3) The recording is relevant to a formal or informal
11 complaint against a peace officer or agency.

12 (4) A request regarding the recording has been made pursuant
13 to paragraph "e".

14 *c.* If the contents of a recording created by a body camera
15 may be used in a criminal prosecution, the agency shall retain
16 the contents of such recording in the same manner as other
17 evidence in the criminal prosecution and the time period to
18 retain the contents of the recording under paragraph "a" or "b"
19 shall be extended to equal the time period for the retention of
20 other evidence that may be use in the criminal prosecution.

21 *d.* An agency shall post on the public internet site of the
22 agency its policies relating to the retention of recordings
23 created by body cameras, requests for the retention of the
24 recordings, and requests for copies of such recordings.

25 *e.* (1) Any of the following persons may make a request
26 that the contents of a recording created by a body camera be
27 retained by the agency for the period of time set out under
28 paragraph "b":

29 (a) A person who is part of the contents of the recording.

30 (b) A person whose property has been seized or damaged in
31 relation to, or is otherwise involved with, a crime that is
32 related to the recording.

33 (c) A parent or legal guardian of a person described in
34 subparagraph division (a) or (b).

35 (d) An attorney for a person described in subparagraph

1 division (a) or (b).

2 (e) Any other person if the person described in subparagraph
3 division (a) or (b) has given written authority to the agency
4 to disclose the contents of the recording to the other person.

5 (2) Such person making such a request is not required to
6 file a complaint and the contents of the recording are not
7 required to be part of an investigation in order for a person
8 to make such a request.

9 (3) A person making such a request may view and make or
10 request a copy of the contents of a recording created by a body
11 camera. The agency retaining the contents of the recording
12 shall provide such a person with a copy of the requested
13 recording.

14 *f.* A person, who is not a part of the contents of a
15 recording created by a body camera, may request a copy of such
16 recording. Before the request is granted, each person who is
17 part of the contents of the recording shall be notified of
18 the request and may object to the request. If no objection
19 is made, the agency shall make available to the requesting
20 party a copy of the contents of the recording. If an objection
21 is made, the objecting party has thirty days to petition the
22 district court to order that the contents of the recording not
23 be released, otherwise the contents of the recording shall be
24 released.

25 *g.* Prior to deleting or disposing of the contents of a
26 recording created by a body camera, the person who has the
27 responsibility of deleting or disposing of such a recording on
28 behalf of the agency shall review all applicable and available
29 records, files, and databases to ascertain whether any reason
30 exists that the recording should not be deleted or disposed of
31 under this section or under the policies of the agency. The
32 contents of such a recording shall not be deleted or disposed
33 of if such a reason exists.

34 7. A peace officer who fails to record any interaction as
35 required by this section or who fails to stop recording an

1 interaction as required by this section shall be considered
2 to have committed a violation of this section. For a first
3 violation a peace officer shall be given a written reprimand.
4 For a second or subsequent violation the peace officer shall
5 be suspended until an investigation into the cause of the
6 violation has been completed.

7 8. If during a criminal prosecution or civil action an
8 agency is unable to produce a body camera recording required
9 to be made and retained pursuant to this section, a rebuttable
10 presumption arises that the recording would corroborate the
11 version of the facts advanced by the defendant in the criminal
12 action or the party opposing the peace officer or agency in the
13 civil action.

14 9. An agency shall participate in any existing state or
15 federal programs that fund or supplement the costs to purchase
16 and maintain body cameras worn by peace officers.

17 Sec. 3. IMPLEMENTATION OF ACT. Section 25B.2, subsection
18 3, shall not apply to this Act.

19 EXPLANATION

20 The inclusion of this explanation does not constitute agreement with
21 the explanation's substance by the members of the general assembly.

22 This bill requires certain peace officers, including tribal
23 law enforcement officers, to wear and use a body camera.

24 The bill defines "agency" to mean a law enforcement agency.

25 The bill defines "body camera" to mean an electronic device
26 that is capable of recording video and audio data or capable of
27 transmitting video and audio data to be recorded remotely, and
28 is worn on the person of a peace officer.

29 The contents of the body camera recording shall be a public
30 record and the release of the contents of such a recording
31 shall be governed by new Code section 80C.1 which is created
32 in the bill.

33 The body camera requirement applies to a county sheriff
34 or deputy sheriff, city peace officer, peace officer member
35 of the department of public safety, peace officer at a

1 regents institution, conservation officer, an employee of the
2 department of transportation designated as a peace officer,
3 an employee of an aviation authority designated as a peace
4 officer, and a certified tribal law enforcement officer.

5 The bill requires a peace officer to wear a body camera
6 at all times while on duty and in uniform. The bill further
7 requires that the peace officer record all interactions with
8 people in the performance of the official duties of the peace
9 officer from the beginning to the end of those interactions.

10 The bill specifies that a body camera must be worn on the
11 chest or at the eye level of the peace officer.

12 The bill prohibits a body camera from containing facial
13 recognition technology unless the use of such technology has
14 been authorized by the court pursuant to an arrest or search
15 warrant.

16 The bill requires a peace officer to inform a person when
17 that person is being recorded by a body camera unless informing
18 the person would be unsafe, impractical, or impossible.

19 If a peace officer who is wearing a body camera enters a
20 residence without a warrant or where no exigent circumstances
21 exist, the bill requires that the peace officer immediately ask
22 a resident whether the resident desires the peace officer to
23 stop the body camera recording while the peace officer is in
24 the residence. If the resident responds in the affirmative,
25 the bill requires the peace officer to stop the body camera
26 recording. The bill also requires the peace officer to record
27 the question and any answer to the question.

28 If a peace officer wearing a body camera interacts with a
29 person reporting a crime, providing information regarding a
30 crime or ongoing investigation, or claiming to be a victim of a
31 crime, the bill requires the peace officer to immediately ask
32 whether the person desires the peace officer to stop the body
33 camera recording of the interaction. If the person responds in
34 the affirmative, the bill requires the peace officer to stop
35 the body camera recording. The bill also requires the peace

1 officer to record the question and any answer to the question.

2 The bill requires that an agency shall retain the contents of
3 a recording created by a body camera for 30 days. However, an
4 agency shall retain the contents of a recording created by a
5 body camera for three years if any of the following apply: the
6 recording depicts an incident involving the use of force; the
7 recording depicts an incident that leads to detention or arrest
8 of a person; the recording is relevant to a formal or informal
9 complaint against a peace officer or agency; or a request by
10 an interested or authorized person has been made to retain the
11 recording. Under the bill, the contents of the recording may
12 be retained even longer than three years if the contents may be
13 relevant to a criminal prosecution.

14 Any of the following persons may make a request that the
15 contents of a recording created by a body camera be retained
16 for three years: a person who is a part of the contents of
17 the recording; a person whose property has been seized or
18 damaged in relation to, or is otherwise involved with, a crime
19 that is related to the recording; a parent or guardian of a
20 person who is part of the contents of the recording or whose
21 property was seized, damaged, or involved with a crime that
22 is related to the recording; the attorney for a person who is
23 part of the contents of the recording or whose property was
24 seized, damaged, or involved with a crime that is related to
25 the recording; any other person if such person has been given
26 written authority to disclose the contents of the recording
27 by the person who is part of the contents of the recording or
28 whose property was seized or damaged.

29 The bill provides that a person who is not a part of the
30 contents of a recording created by a body camera may request a
31 copy of such recording. Before the request is granted, each
32 person who is part of the contents of the recording shall be
33 notified of the request and may object to the request. If
34 no objection is made, the bill requires the agency to make
35 available to the requesting party a copy of the contents of

1 the recording. If an objection is made, the bill allows the
2 objecting party 30 days to petition the district court to order
3 that the contents not be released, otherwise the contents of
4 the recording shall be released.

5 Prior to deleting or disposing of the contents of a recording
6 created by a body camera, the bill requires the person who has
7 the responsibility of deleting or disposing of such a recording
8 on behalf of the agency to review all applicable and available
9 records, files, and databases to ascertain whether any reason
10 exists that the recording should not be disposed of or deleted.

11 A peace officer who fails to record any interaction with
12 a person or who fails to stop recording such interaction
13 as required by the bill commits a violation. For a first
14 violation of the bill a peace officer shall be given a written
15 reprimand. For a second or subsequent violation of the bill
16 the peace officer shall be suspended until an investigation
17 into the cause of the violation has been completed.

18 The bill also provides that if during a criminal prosecution
19 or civil action an agency is unable to produce a body camera
20 recording, a rebuttable presumption arises that the recording
21 would corroborate the version of the facts advanced by the
22 defendant in the criminal action or the party opposing the
23 peace officer or agency in the civil action.

24 The bill specifies that an agency shall participate in any
25 existing state or federal programs that fund or supplement
26 the costs to purchase and maintain body cameras worn by peace
27 officers.

28 The bill may include a state mandate as defined in Code
29 section 25B.3. The bill makes inapplicable Code section 25B.2,
30 subsection 3, which would relieve a political subdivision from
31 complying with a state mandate if funding for the cost of
32 the state mandate is not provided or specified. Therefore,
33 political subdivisions are required to comply with any state
34 mandate included in the bill.